

---

# State Renewable Energy News

## A Compilation of Renewable Electric Activities in the States

Prepared for the NARUC Renewable and Distributed Resources Subcommittee

---

Volume 13, No. 2

Summer 2004

### State Activities

#### Connecticut

##### **Governor Orders State RE Purchases**

Gov. John G. Rowland issued an executive order, which calls for state government to obtain 20% of its electricity needs from renewable energy sources by 2010, increasing to 50% in 2020 and 100% by 2050. The order, which covers all state-owned buildings (including colleges and universities) is an outgrowth of a stakeholders dialogue on climate change conducted during 2003. Under the order, the total government demand for renewable electricity is estimated to be 140 million kilowatt-hours (kWh) or 16 average megawatts (aMW) in 2010.

##### **Governor's Office Contact:**

**Dean Pagani (860) 524-7313**

#### Hawaii

##### **Legislature Passes RPS Bill**

On June 2, Gov. Linda Lingle signed a bill (SB 2474) establishing a requirement for the state's utilities to obtain a minimum percentage of their electricity supply from renewable energy sources. The renewables portfolio standard (RPS) starts at 8% of net electricity sales by the end of 2005, increasing to 10% in 2010, 15% in 2015, and 20% in 2020. Renewables currently provide from 7% to 8% of Hawaii's electricity supply.

The bill directs the PUC to study the feasibility of implementing a rate structure "to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources . . . to meet the (RPS)." The law also allows the PUC to relieve a utility from the RPS requirement if the utility is unable to meet the RPS "in a cost-effective manner, or as a result of

circumstances beyond its control, which could not have been reasonably anticipated or ameliorated."

#### Idaho

##### **PUC Rejects Green Tags Case**

The PUC denied a request from Idaho Power Co. to declare ownership of "green tags" associated with renewable power projects that qualify under provisions of the federal Public Utility Regulatory Policies Act (PURPA). Green tags, also known as renewable energy certificates (RECs), represent the unique attributes of renewable energy generation separated from the physical electricity product. RECs are becoming increasingly valuable as more states are requiring electricity providers to supply a portion of their power from renewable energy sources.

In October 2003 (in an unrelated case), the Federal Energy Regulatory Commission (FERC) ruled that qualifying facility (QF) contracts pursuant to PURPA do not convey ownership of the renewable energy attributes to the purchasing utility, without provision in a contract to the contrary. The FERC also declared that while a state may decide that a sale of power at wholesale automatically transfers ownership of the state-created RECs, that requirement must find its authority in state law, not PURPA.

In its order, the PUC said that the matter is "not ripe for declaratory judgment " because the State Legislature has not enacted an RPS, has not created a green tags program, and has not established a trading market for green tags.

Idaho Power had proposed that the commission allow project owners to retain ownership of the green tags, but to require the project owners to grant the utility a “right of first refusal” to purchase the tags before offering them to another buyer.

**PUC Contact:**

**Gene Fadness, (208) 334-0339**

Illinois

**Court Ruling Protects Clean Energy Fund**

A U.S. District Court judge ruled that a 2003 state statute requiring the Illinois Clean Energy Community Foundation to contribute up to \$125 million to the state treasury and state environmental agencies upon written demand is unconstitutional.

The foundation was created in 1999 as the result of a compromise between Commonwealth Edison (ComEd) and the state regarding the utility’s sale of power plants. As part of the compromise, the state authorized ComEd to establish a foundation to provide financial support for clean energy development activities. ComEd contributed \$225 million to establish the foundation.

The court found that the foundation is not a state agency and had standing to sue the state as a private organization. Based on that determination, the court ruled that the 2003 statute was unconstitutional, and that its enactment violated both procedural and substantive due process rights under the federal constitution.

Maryland

**Legislature Establishes RPS**

Gov. Robert L. Ehrlich, Jr. signed a bill (SB 869), which establishes a RPS for the state’s electricity supply. The bill creates two tiers of renewable energy sources. Tier 1 sources include solar, wind, geothermal, qualifying biomass, small hydropower (less than 30 MW), and landfill methane. Tier 2 sources include larger hydropower plants, poultry litter incineration, and other waste-to-energy projects. Eligibility of hydropower and waste-to-energy is limited to existing projects.

The law requires that, in 2006, 3.5% of the state’s electricity be generated from renewable resources, with 1% from Tier 1 sources and 2.5% from Tier 2 sources. Between 2007 and 2018, the Tier 2 source requirement remains at 2.5%, but the Tier 1 requirement increases by 1% every other year. Beginning in 2019 and in all subsequent years, the RPS requirement is 7.5% and consists entirely of Tier 1 sources.

The law institutes an Alternative Compliance Fee (ACF) that suppliers must pay if they fail to meet the RPS requirements—the ACF is 2¢/kWh for Tier 1 resources and 1.5¢/kWh for Tier 2 resources. The law also creates the Maryland Renewable Energy Fund, which will be funded from ACF payments. The fund will be administered by the Maryland Energy Administration and will be used to make loans and grants to support the development of new Tier 1 renewable energy sources within the state. The law also establishes a renewable energy credit trading system to facilitate RPS compliance among suppliers.

**Net Metering Expanded to Wind Systems**

Gov. Ehrlich also signed a bill that expands the state’s net-metering program for solar electric-generating facilities to include wind generators. To be eligible for net metering, wind-generating facilities must have a capacity of less than 80 kW, be located on the customer’s premises, and be intended to offset all or part of the customer’s own electricity needs.

The bill also revises the definition of an “eligible customer-generator” to include private businesses and nonprofits in addition to residential customers in single-family homes and elementary, secondary, and postsecondary schools and institutions. Utilities are prohibited from including charges that would raise the customer-generator’s minimum monthly charge above that of nongenerating customers; and from requiring customer-generators to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

### Michigan

#### **PSC Issues Renewables Orders**

On May 18, the MPSC ordered Consumers Energy to implement a new renewable resources program to meet customer demand for renewable energy. The program is to include a “phased-in approach” to adding renewable energy capacity to more closely match customer subscriptions. Since October 2001, Consumers Energy has operated a green-pricing pilot program. The initial 1.8 MW of wind energy supply was quickly subscribed, and no new renewable energy supplies have been added to meet continued customer demand.

The MPSC also ordered the utility to implement a non-bypassable charge of 5 cents per meter per month on all customers as a “funding mechanism to recover green power program costs not covered by contributions of customers who agree to pay a premium for green power.”

In a separate order, the MPSC directed its staff to develop an implementation plan for a statewide net-metering program.

#### **MPSC Contact:**

**Tom Stanton, (517) 241-6086**

### New York

#### **ALJ Issues Recommended RPS Decision**

Following 15 months of discussions involving more than 150 interested parties, a DPS Administrative Law Judge (ALJ) issued a Recommended Decision (RD) proposing a roadmap for how the PSC might implement a statewide RPS initiative. In his 2003 State of the State address, Gov. George E. Pataki called for the PSC to implement an RPS, under which the state would obtain 25% of its electricity supply from renewable energy sources—the state currently gets about 17% of its electricity from renewables, largely hydropower.

The RD suggests a target year of 2013 for meeting the RPS, with a 2008 review of the schedule for possible adjustment. The ALJ noted that the overall costs of achieving the RPS will likely be small because the renewables cost premium “will be offset by reductions in wholesale energy costs, as New

York reduces its reliance on fossil fuels.” The ALJ also noted that “because of the persistently high price of natural gas, the bill impacts for the RPS are modest if not minimal.”

A series of public forums were held in June to provide the public with information on the RPS proceeding and to receive input. The PSC can accept, modify, or reject the ALJ’s recommendations based on the evidence in the proceeding and all the comments received.

#### **Legislature Passes Net Metering for Wind**

Both the State Senate and Assembly passed a bill that adds residential and farm service wind electric-generating systems to the list of renewable energy systems eligible for net metering in the state. Residential wind systems have a size limit of 25 kW, while farm-based systems can be as large as 125 kW.

Utilities are prohibited from imposing standby rates, backup fees, or other charges or fees on customers with wind-generating systems that are 10 kW or smaller in size and who enter into a net-metering contract with the utility. These customers will receive a monthly retail rate credit for any excess power generated, with an annual reconciliation and payment at the utility’s avoided cost. Customers with wind systems greater than 10 kW must pay one-half of the utility inter-connection costs and will receive credit for excess generation on a monthly basis at the utility’s avoided cost.

Net-metering rules were previously established by the Legislature for solar photovoltaic systems (1997) and farm-based anaerobic digester systems (2002). The wind bill is awaiting Gov. Pataki’s signature.

### Rhode Island

#### **State Establishes 15% RPS**

Gov. Donald Carcieri signed a bill that requires 15% of the state’s electricity to come from renewable energy sources by 2020. The bill was passed unanimously in the General Assembly.

Starting in 2003, all obligated entities must obtain a minimum of 3% of the electricity they sell at retail to end-use customers from eligible renewable energy resources, increasing by 0.5% annually in 2008, 2009, and 2010; and by 1% annually in 2011, 2012, 2013, and 2014; provided that the RIPUC determines the adequacy—or potential adequacy—of renewable energy supplies to meet these percentage requirements. The RPS requirement then increases by an additional 1.5% annually from 2015 to 2019, thus reaching the 15% level. Currently, Rhode Island obtains about 2% of its electricity supply from renewable energy sources.

The law allows the obligated entities to make alternative compliance payments into a Renewable Energy Development Fund managed by the Rhode Island Economic Development Corporation (EDC). The EDC can use the funds to, among other things, enter into long-term contracts for renewable energy certificates, which can provide financial support for renewable energy project developers. The law also requires obligated entities to distribute energy source disclosures to customers, indicating what sources of energy were used to generate electricity for each electricity product, and also to indicate the emissions created as a result of the product-generation mix.

### **State House to Use Green Power**

Gov. Carcieri also announced that the State Energy Office (SEO) has committed to purchase enough green power to meet the entire electricity needs of the State House for the next five years. The purchase, equivalent

to the output of one large wind turbine, will cost an estimated \$210,000, which will be paid through funds provided by the Rhode Island Renewable Energy Fund. The SEO will issue a competitive solicitation for the renewable energy supply.

## **Other Activities**

### **Western Governors Set Clean Energy Goal**

Western Governors agreed unanimously at their June annual meeting to explore opportunities to develop “a clean, secure and diversified energy system for the West and to capitalize on the region's immense energy resources.” The adopted resolution calls for the Western states to examine the feasibility and actions required to reach a goal of 30,000 MW of clean energy by 2015 and a 20% improvement in energy efficiency by 2020.

A working group will be formed to determine how to reach the goals and ensure the region has the necessary generation and transmission capacity. The resolution specifically notes that “there is long term wind energy potential in the western plains and mountain states but that a more aggressive effort to develop this energy resource is needed” and calls for “a comprehensive study of the development and transmission of the West's wind energy resources” that “should emphasize policies that can facilitate wind development throughout the region.”

### **WGA Contact:**

***Karen Deike, (303) 623-9378***

This newsletter is prepared for the Renewable and Distributed Resources Subcommittee of NARUC's Energy Resources and the Environment (ERE) Committee to promote the sharing of information on state-level renewable electric activities.

Internet links to the legislation, orders, decisions, and other documents referenced in this newsletter, as well as past issues of this newsletter, can be found at: <http://www.nrel.gov/analysis/sren>.

Comments can be directed to Blair Swezey, National Renewable Energy Laboratory, at (303) 384-7455 or [Blair.Swezey@nrel.gov](mailto:Blair.Swezey@nrel.gov).

The Subcommittee Chair is the Honorable Phyllis Reha, Commissioner, Minnesota Public Utilities Commission.